

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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WINDWARD BORA LLC, :

Plaintiff, : ORDER

-v.- :
20 Civ. 1087 (GBD) (GWG)
GLENN SWINNEY, et al., :

Defendants. :
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GABRIEL W. GORENSTEIN, UNITED STATES MAGISTRATE JUDGE

By Order dated June 3, 2021 (Docket # 28), the Court required each party in this matter to make certain written submissions to the Court on or before July 2, 2021 in anticipation of a settlement conference scheduled for July 9, 2021.

While the plaintiff timely made its submissions, no such submissions were received from the defendants. This failure is all the more inexcusable inasmuch as (1) a clerk sent an email to the parties on June 30, 2021, reminding them of the July 2 due date of the submissions; (2) when no submission from defendants timely arrived, a clerk left a voice message for counsel for defendants, Narissa Adrienne Joseph, on July 6, which Ms. Joseph failed to return; (3) the clerk on July 7 emailed Ms. Joseph, who called Chambers and assured the clerk she would make the submission that day; and (4) as of the signing of this Order, the submission still has not been made.

The defendants at no time requested an adjournment of the conference; nor did they seek to adjourn the deadline for making the required written submissions. The Court obviously cannot hold a settlement conference if a party has not fulfilled its obligations regarding the written submissions.

Accordingly, the settlement conference scheduled for July 9, 2021, is adjourned sine die. The Court notes that it represents a great inconvenience to the Court to have been required to hold a significant block of time for a conference only to be forced to cancel it at the last moment. This block of time was not available for the scheduling of other important matters that require the attention of this Court.

It appearing that the defendants have violated the terms of the Court's June 3 Order, it is hereby ORDERED that counsel for the defendants, Narissa Adrienne Joseph, shall set forth her views on whether in fact there has been a violation of the Court's Order and, if such violation is conceded, to offer any explanation as to why sanctions should not be imposed against her or her clients either based on Fed. R. Civ. P. 16(f), 28 U.S.C. § 1927, or the inherent powers of the Court. Such showing shall be made by affidavit and a memorandum of law compliant with Local Civil Rule 7.1(a)(2) filed on or before July 15, 2021. Opposing counsel may file a letter

on or before the same date if counsel wishes to be heard on the matter — for example, with respect to any expenses the opposing party was required to bear as a result of the defendants' conduct. If counsel for the defendants wishes that a live hearing be held on this matter, she should so state and should set forth the reasons why the consideration of this matter based on written submissions would be insufficient. The Court will thereafter issue a written order in the event a sanction is imposed.

In addition, counsel for the defendants is directed to consult with opposing counsel in accordance with the procedures set forth in paragraph 8 of the Standing Order in Cases Referred for Settlement (Docket # 28) and to file a letter no later than July 15, 2021, proposing a new date for the conference.

SO ORDERED

Dated: New York, New York
July 8, 2021



GABRIEL W. CORENSTEIN
United States Magistrate Judge